

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Travis Austin Kirby,)	C/A No.: 3:08-cv-43-GRA-JRM
)	
Plaintiff,)	
)	
v.)	ORDER
)	(Written Opinion)
Kathleen J. Hodges; Clay T. Allen; and)	
Spartanburg County Public Defenders)	
Office,)	
)	
Defendants.)	
)	
)	

This matter comes before the Court for a review of the magistrate's Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., filed on January 15, 2008. The plaintiff originally brought this suit pursuant to 42 U.S.C. § 1983 on January 8, 2008, alleging that his constitutional rights had been violated because the defendants failed to contact him about his case. The magistrate recommends dismissing the complaint because the plaintiff failed to state a constitutional violation and none of the defendants are agents of the state as required for § 1983 liability to attach.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leake, 574 F.2d 1147, 1151 (4th Cir. 1978).*

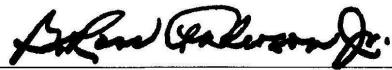
This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). The plaintiff did not file any objections.

After reviewing the magistrate's Report and Recommendation, the record, and applicable case law, this Court finds that the magistrate's Report and Recommendation applies sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Report and Recommendation in its entirety.

IT IS THEREFORE SO ORDERED that the plaintiff's complaint be dismissed without prejudice and without issuance of service and process.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

February 29, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**